IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21144 of 1994

Between:

1 Sadu Malleswara Rao, S/o. S. Appala,
R/o. Ramakrishanpuram (V), Kothapally(M),
Srikakulam Dist.
2 Sadu Krishna Rao, S/o. S. Appala,
R/o. Ramakrishanpuram (V), Kothapally(M),
Srikakulam Dist.
3 Smt Sadhu Saraswathamma, W/o. Sadhu Appala Naidu,
R/o. Ramakrishanpuram (V), Kothapally(M),
Srikakulam Dist. … Petitioner

AND

1 State of Andhra Pradesh, it's Special Secretary
(Revenue), Secretariat Buildings, Hyderabad.
2 The Commissioner, Survey Settlements and Lands
Records, A.P., Nampally Road, Hyderabad.
3 The Revenue Divisional Officer, Palakonda,
Srikakulam Dist.
4 The Special Deputy Tahsildar (Inams), Palakonda,
Srikakulam Dist.
5 Sri Sri Radharamaswamy varu Kothapally Bada
Radhakanth trustee muth ,rep.by it's Tsrustee
Dhyauchandra Das, Parlkimidi, Kothapally(M),
Srikakulam Dist. … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Certiorari or any other appropriate Writ, order or direction in the nature of Writ Under Art.226 of the Constitution of India calling for the records in File No.VI/1013/1985 dt.5.11.1993 on the file of the Commissioner ,Survey, Settlements and Land Records A.P., Hyderabad the 2nd respondent herein and quash the same..

Counsel for the Petitioners: MR.RAMA RAO MAVIDI

Counsel for the Respondents 1 to 4: G.P. for Revenue

Counsel for the Respondentno.5: MR.N.V.RANGANATHAN

The Court made the following :

ORDER:

Heard both sides.

The petitioners herein filed this Writ Petition *inter alia* seeking for Writ of Mandamus assailing the impugned order dated 05.11.1993 passed by the 2nd respondent herein allowing the appeal at the instance of contesting respondents herein.

The facts which are necessary for disposal of the Writ Petition are that initially the 4th respondent-primary authority passed an order on 15.04.1983, which was set aside in appeal by the 3rd respondent-appellate authority on 24.08.1983 and against which revision was filed before the 2nd respondent wherein the order of the appellate authority was reversed as per the impugned order dated 05.11.1993. Hence, the Writ Petition.

Before going into merits of the claim on either side, it is submitted by the learned counsel for the petitioners that the counsel appearing for the 2nd respondent in the revision, which was pending, filed a memo on 24.11.1992 withdrawing his appearance and thereafter there was no notice to the petitioners nor the counsel withdrawing the vakalat gave any intimation to the petitioners. Thus the matter went unrepresented and the orders passed were virtually exparte. Hence, the petitioners sought for providing an opportunity of hearing.

Considering the submissions and on perusal of the material, it is seen from the impugned order itself that initially both the parties were represented their respective counsel and the matter was heard on 14.06.1990. Thereafter, having regard to the fact that there is another connected judgment of this Court in A.S. No. 552 of 1957, which would have relevance, the matter was reopened by the 2nd respondent and posted for hearing on 06.07.1990. Thereafter, the said matter underwent couple of adjournments for some reason or the other and on

24.11.1992, a memo was filed by the counsel giving up his vakalat. Admittedly, no notice was given to the petitioners nor there is anything on record to show that the counsel giving up vakalat, gave intimation to the petitioners. In view of the same, it is quite apparent that the petitioners were not heard nor given any opportunity much less any notice apart from other procedure as contemplated vis-à-vis their counsel. In the circumstances, it has to be held that the matter certainly requires to be reconsidered afresh.

The Writ Petition is, accordingly, allowed. The impugned order dated 05.11.1993 passed by the 2nd respondent is set aside. The matter is remanded to the 2nd respondent for fresh disposal in accordance with law after giving notice and opportunity to both the sides. No costs.

(B.Prakash Rao, J.)

07.04.2005

DRK/MRKR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Chief Justice

On Thursday the seventh day of April two thousand and five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copy to

1 The Special Secretary (Revenue), State of Andhra Pradesh, Secretariat Buildings, Hyderabad.
2 The Commissioner, Survey Settlements and Lands Records, A.P., Nampally Road, Hyderabad.
3 The Revenue Divisional Officer, Palakonda, Srikakulam Dist.
4 The Special Deputy Tahsildar (Inams), Palakonda, Srikakulam Dist.
5 Two CCs to the G.P. for Revenue, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

6 2 CD copies